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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 6th December, 1985:—

BILL NO. 120 OF 1985

A Bill to provide for the establishment of the Crop Insurance Corporation for the purpose of undertaking the business of crop insurance so as to protect the interest of farmers from loss due to unavoidable causes and also as a support measure to promote increased food and agricultural production.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Crop Insurance Corporation Act, 1985. Short title and commencement.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act for different States or for different parts thereof.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Board" means the Board of Directors constituted under section 7;

(b) "Corporation" means the Crop Insurance Corporation of India set up under this Act;

(c) "Crop" means and includes paddy, wheat, gram, barley, millet, corn, potato, pulses, sugarcane and such other agricultural commodities which may be notified, from time to time, by the Central Government in the Official Gazette;

(d) "Crop Insurance" means and includes insurance against loss of the insured crop due to unavoidable causes, including drought, flood, hail, wind, frost, lightning, fire, excessive rain, snow; wild life; insect infestation, plant disease and such other unavoidable causes as may be prescribed;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Scheme" means a scheme made under this Act for the purpose of providing compulsory insurance to the growers of crops for harvesting.

CHAPTER II

THE CROP INSURANCE CORPORATION OF INDIA

Crop
Insurance
Corporation
of
India
and its
powers.

3. (1) With effect from such date as the Central Government may by notification in the Official Gazette, specify in this behalf, the Central Government shall establish for the purposes of this Act a Corporation to be known as the Crop Insurance Corporation of India.

(2) The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.

(3) The Corporation shall have power to enforce compulsory crop insurance in any area declared as "Crop Insurance Area" by a notification published in the Official Gazette.

(4) The Corporation shall have power to recover the premium from growers of crops in the same manner as if the amount of premium due is arrears of land revenue.

Offices
and
Agencies
of the
Corporation.

4. (1) The heads office of the Corporation shall be at Nagpur or at such other place other than Delhi, Bombay, Calcutta and Madras as the Central Government may, by notification in the Official Gazette, specify.

(2) The Corporation may, with the previous approval of the Central Government, establish offices or agencies in India.

Capital
of Corpo-
ration.

5. (1) The original capital of the Corporation shall be such sum not exceeding five hundred crores of rupees as the Central Government may fix.

(2) The Central Government may from time to time increase the capital of the Corporation to such extent and in such manner as that Government may determine.

(3) Such capital may be provided by the Central Government from time to time after due appropriation made by Parliament by law for the

purpose and subject to such terms and conditions as may be determined by that Government.

6. (1) The General superintendence, direction and management of the affairs and business of the Corporation shall vest in a board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

Management of the Corporation.

(2) The board of directors, in discharging its functions, shall act on business principles having regard to the interests of the Corporation and shall be guided by such instructions on questions of policy as may be given in writing to it by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

7. (1) The Board of Directors of the Corporation shall consist of the following, namely:—

Constitution and powers of the Board of Directors.

(a) a Chairman;

(b) four directors to represent respectively the Ministries/Departments of the Central Government dealing with:—

- (i) food,
- (ii) agriculture,
- (iii) irrigation,
- (iv) finance, and
- (v) co-operation;

(c) the Managing Director of the Life Insurance Corporation of India established under section of the Life Insurance Act, 1956, ex-officio;

(d) Controller of Insurance, Ministry of Finance;

(e) a Managing Director having, at least, five years experience of managing the affairs of one or more statutory corporations in the capacity of a managing director;

(f) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) duly elected by the members of the House of the People and members of the Council of States, respectively;

(g) one person each nominated by the Government of the State in which the crop insurance is in operation;

(2) The Chairman and all the directors of the Corporation other than the directors referred to in clauses (c), (f) and (g) of sub-section (1), shall be appointed by the Central Government.

(3) The Managing Director shall,—

(a) exercise such powers and perform such duties as the Board of Directors may entrust or delegate to him; and

(b) receive such salary and allowances as the Board of Directors may, with the approval of the Central Government fix:

Provided that the first Managing Director shall receive such salary and allowances as the Central Government may fix.

(4) The term of office of, and the manner of filling casual vacancies among, the Chairman and directors of the Board, other than the directors referred to in clauses (c), (f) and (g) of sub-section (1), and the other terms and conditions of their appointment shall, subject to the provisions of sub-section (3), be such as may be prescribed.

Disqualification for office of director.

8. A person shall be disqualified for being appointed as, and for being, a Chairman or director of the Board—

(a) if he is, or at any time has been adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) if he is of unsound mind and stands so declared by a competent court; or

(c) if he is or has been convicted of any offence which in the opinion of the Central Government involves moral turpitude; or

(d) if he has been removed or dismissed from service of the Government or a corporation owned or controlled by the Government.

Removal and resignation of directors.

9. (1) The Central Government may, at any time, after consultation with the Board, remove the Managing Director from the office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The Board of Directors may remove any director from office who—

(a) is or has become subject to any of the disqualifications mentioned in section 8; or

(b) is absent, without leave of the Board of Directors from more than three consecutive meetings thereof without sufficient cause, in the opinion of the Board, to exonerate his absence.

(3) The Chairman or a director of the Board may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Meetings of the Board of Directors.

10. (1) The Board of Directors of the Corporation shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Corporation under this Act.

(2) The Chairman of the Board or, if for any reason he is unable to attend any meeting, any other director elected by the directors present at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

11. (1) The Central Government may, in consultation with the Board, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such persons and on such terms and conditions as may be prescribed.

Constitution of
Advisory
Committees.

(2) It shall be the duty of any such Advisory Committee to advise the Central Government or the Corporation in regard to any matter connected with the purposes of this Act in respect of which its advice is sought by the Central Government, or by the Corporation as the case may be.

(3) The expenses in relation to the Advisory Committees shall be met by the Corporation.

12. (1) The Central Government shall, except in the case of initial constitution of the Board, after consultation with the Corporation, appoint a person to be the Secretary of the Corporation.

Secretary
and other
officers and
employees
of Cor-
poration.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Corporation may appoint such other officers and employees as it considers necessary for the efficient performance of its functions.

(3) The methods of appointment the conditions of service and the scales of pay of the Secretary, officers and other employees of the Corporation shall—

- (a) as respects the Secretary, be such as may be prescribed by the Central Government;
- (b) as respects the officers and employees, be such as may be determined by regulations made by the Corporation under this Act.

CHAPTER III

CROP INSURANCE SCHEME

13. (1) The Central Government shall, as soon as after the commencement of this Act, formulate a scheme providing for compulsory insurance of crops planted for harvesting by farmers.

Crop
Insu-
rance
Scheme.

(2) The Scheme shall, *inter alia*, provide for the following namely:—

- (a) the terms and conditions of crop insurance;
- (b) the terms and conditions of multiple crop insurance, i.e., insurance of two or more agricultural commodities under one contract with the farmer;
- (c) the extent to which the insurance loss may be covered;
- (d) rate of premium to be paid by the farmers;
- (e) procedure for payment of claims for losses in agricultural commodities and the manner of payment;
- (f) adjustment and payment of claims for losses under the scheme in kind or in cash, in accordance with rules as may be prescribed under this Act.

Provided that indemnities may be determined on the same price basis as premiums are determined for the crop with respect to which such indemnities are paid.

(3) The Scheme made under sub-section (1) may be modified by the Corporation subject to the condition that any such modification shall come into force after it has received the approval of the Central Government.

Duty of
the Corpo-
ration.

14. It shall be the duty of the Corporation to administer the scheme.

Crop
Insu-
rance
Fund.

CHAPTER IV

FINANCE AND AUDIT

15. (1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Crop Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any State Government, local authority or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) Subject to the other provisions contained in this Act and to any rules or regulations made on this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other Bank as may be approved by the Central Government to the credit of an account called the Crop Insurance Fund account.

(4) Such account shall be operated by such officers as may be authorised by the Corporation.

Purposes
for
which
fund
may be
expended.

16. Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Crop Insurance Fund shall be expended only for the following purposes, namely:—

(i) payments against losses covered by crop insurance in accordance with the provisions of this Act or the scheme made thereunder and defraying the charges and costs in connection therewith;

(ii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;

(iii) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(iv) such other purposes connected with the affairs of the Corporation as may be prescribed.

Mainte-
nance of
accounts
of the
Corpora-
tion.

17. The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

18. (1) The accounts of the Corporation shall be audited by auditors who are qualified as auditors of companies under the law for the time being in force relating to companies, and the auditors shall be appointed by the Corporation with the previous approval of the Central Government and shall receive such remunerations from the Corporation as the Central Government may fix.

Audit of accounts.

(2) Every auditor in the performance of his duties shall have at all reasonable times access to the books, accounts and other documents of the Corporation and may for the purposes of the audit, call for such explanation and information as they may require or may examine any principal or other officer of the Corporation.

(3) The auditors shall submit their report together with an audited copy of the accounts of the Corporation and shall also forward a copy of such report to the Central Government.

19. The Corporation shall, at intervals of five years, cause an investigation to be made by the actuaries into the financial condition of its insurance business including the valuation of its assets and liabilities and submit the report of the actuaries to the Central Government.

Valuation of assets and liabilities. Annual Reports.

20. The Corporation shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form, as may be prescribed, a report giving an account of its activities during the previous financial year, and an account of the activities, if any, which are likely to be undertaken by the Corporation in the current and the immediately following financial year.

21. The Central Government shall cause the report of the auditors under section 18, the report of the actuaries under section 19 and the report giving an account of the activities of the Corporation under section 20 to be laid before both the Houses of Parliament, as soon as may be, after each such report is received by the Central Government.

Laying of reports before Parliament.

CHAPTER V

MISCELLANEOUS

4 of 1938.

22. The Central Government may, by notification in the Official Gazette, direct that all or any of the provisions of the Insurance Act, 1938 shall apply to the Corporation, subject to such conditions and modifications as are not inconsistent with this Act.

Power to extend Insurance Act, 1938.

23. The Central Government may give directions to a State Government as to the carrying into execution of any scheme of crop insurance in that State.

Power of Central Government to give directions.

24. (1) The Chairman and every Director of the Board shall be indemnified by the Corporation against all losses and expenses incurred by him in or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

Indemnity of Chairman and Directors.

(2) A director of the Board shall not be responsible for the acts of any other director or of any other officers or other employees of the

Corporation, or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office or in relation thereto.

Protection of action taken in good faith.

25. No suit or prosecution or other legal proceedings shall lie against the Chairman or any director of the Board or any employee of the Corporation for anything which is, in good faith, done or intended to be done in pursuance of this Act.

Exemption from Taxation.

26. Notwithstanding anything contained in any other law for time being in force, the Corporation shall be exempt from all taxation.

Persons under twenty one years of age.

27. (1) Notwithstanding any other provision of law, no person shall be denied insurance under this Act solely on the ground that he has not acquired the age of majority if such person is over sixteen years of age.

(2) Any such person who is covered by the scheme shall be subject to the same liability and shall have the same legal rights under the scheme as any person who is a major.

Power to make rules.

28. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the term of office of and the manner of filling casual vacancies among, and the other terms and conditions of appointment of the directors of the Corporation;

(b) the composition of Advisory Committees and the terms and conditions of service of members thereof;

(c) the additional functions which the Corporation may perform;

(d) the remuneration of fees payable to the members of the Board of directors and the term of office of, and the manner of filling casual vacancies among, such members;

(e) the manner in which the Corporation may invest its funds;

(f) the form of the annual statement of accounts and the balance sheet to be prepared by the Corporation;

(g) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section every scheme made under section 13 and any modification thereto shall be laid as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall

thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. (1) The Corporation may, subject to the condition of previous publication and with the previous approval of the Central Government by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Corporation which may be delegated to the zonal managers which may be appointed under the scheme;

(b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of service of such employees or agents;

(c) the manner in which the funds of the Corporation shall be maintained;

(d) the conduct of business at meetings of the Corporation;

(e) the formation of committees of the Corporation and the delegation of powers and functions of the Corporation to such committees and conduct of business at meetings of such committees;

(f) the form and manner in which policies may be issued and contracts binding the Corporation may be executed;

(g) the manner in which and the interval within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;

(h) the conditions subject to which any payment may be made by the Corporation;

(i) the matter necessary for efficient conduct of the affairs of the Corporation.

Power of
Corpora-
tion to
make
regu-
lations.

STATEMENT OF OBJECTS AND REASONS

The Central and State Governments spend crores of rupees in rehabilitating the farmers affected by floods, drought and other natural calamities. This ultimately increases the burden on the tax-payer without generating sense of confidence and security among the farmers. Therefore, the importance of a compulsory system of comprehensive Crop Insurance as an essential element in various support measures adopted by the Government to improve the rural economy is increasingly recognised. The compulsory Crop Insurance Scheme would not only generate faith and confidence in the farmers in their effort to increase food and agricultural production but also reduce the burden on tax-payers which increase due to funds being spent on relief measures. It is, therefore, necessary to provide for a compulsory Crop Insurance Scheme in the interest of overall economy of the country.

Hence this Bill.

BALASAHEB VIKHE PATIL.

NEW DELHI;
April 10, 1985.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND
274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 120/7/80-Credit-II, dated 1 June, 1985 from Shri Buta Singh, Minister of Agriculture and Rural Development to the Secretary-General Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends the introduction of the Bill in Lok Sabha under article 117(1) and article 274(1) of the Constitution and its consideration under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

. Clause 3 of the Bill seeks to establish the Crop Insurance Corporation of India. It has been provided in clause 5 that the original capital of the Crop Insurance Corporation shall be a sum not exceeding five hundred crores of rupees which has to be provided by the Central Government from time to time from the Consolidated Fund of India after due appropriation made by Parliament. Other expenditure which might have to be incurred in setting up of the Crop Insurance Corporation are not ascertainable at this stage.

The recurring expenditure of the Corporation will be met from the Fund of Corporation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 empowers the Central Government to formulate a scheme providing for compulsory insurance of crops grown by farmers for harvesting. Clause 28 empowers the Central Government to make rules to carry out the purposes of the Act. Clause 29 provides for making of regulations by the Corporation. These powers, delegated to the Central Government and the Corporation, relate to matters of details and are of normal character.

BILL No. 185 OF 1985

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985.

Short title.

2. In article 311 of the Constitution,—

Amendment of article 311.

(i) in clause (2), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that this clause shall not apply—

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge after such person has exhausted all the remedies in courts by way of challenging the orders of penalty against him; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied—

(i) after giving in the first instance a notice in writing informing the Government servant of such charges against him and calling for his explanation thereto;

(ii) after ensuring that the order is not passed with undue haste by arbitrarily using the authority given under the above clause to them;

(iii) after ensuring that the order is not by way of victimisation;

(iv) after ensuring that the order is in good faith and not in the colourable exercise of the rights of such authority;

(v) after ensuring that the order is not passed by the authority by falsely implicating a Government servant in a criminal case on false or concocted evidence; and

(vi) after ensuring that the order is not passed for patently false reasons;

that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied—

(i) after giving in the first instance a notice in writing informing the Government servant of such charges against him and calling for his explanation thereto;

(ii) after ensuring that the order is not passed with undue haste by arbitrarily using the authority given under the above clause to them;

(iii) after ensuring that the order is not by way of victimisation;

(iv) after ensuring that the order is in good faith and not in the colourable exercise of the rights of such authority;

(v) after ensuring that the order is not passed by the authority by falsely implicating a Government servant in a criminal case on false or concocted evidence; and

(vi) after ensuring that the order is not passed for patently false reasons;

that in the interest of the security of the State it is not expedient to hold such inquiry.”;

(ii) in clause (3), for the words “shall be final”, the words “shall not be final and the same shall be liable to be questioned in a court or any other appropriate forum” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It has been the fundamental rule of law and the principle of natural justice that no person should be punished unless an opportunity of being heard is given to him in the first instance. It is because of this well recognised principle that several provisions have been made in the service rules or standing orders or for that matter in the Constitution of India, which is the source of all laws in India. This principle has been upheld on a number of occasions in several judgments by the Supreme Court and whenever there is a violation of this fundamental rule of law by authorities, whether private organisations or State bodies, the Supreme Court has struck down such rules being in violation of the rules of natural justice.

The recent judgment delivered by the Supreme Court on July 11, 1985, while deciding the case of a Government servant, in their attempt to interpret article 311(2) of the Constitution has curiously enough given a complete good-bye to the aforesaid well recognised elementary principle despite the fact that the same principle has been reiterated by the Supreme Court itself on a number of occasions in the past. The repercussions of this judgment will, therefore, be of far-reaching nature and the same will virtually give a death-blow to the very means of livelihood of the citizens who earn the same by serving the Union Government or the State Government in their capacity as Government servants.

The Supreme Court has held that a Government servant could be dismissed, removed or demoted without giving him an opportunity to explain his case under article 311(2) of the Constitution of India, if it was in public interest. Because of this judgment, the principle that a person should be given an opportunity to be heard before taking action against him can be denied to him and such proposition of law has been laid down by the Supreme Court in the face of a series of judgments in the past as well as the constitutional mandate enshrined in article 14 of the Constitution which is intended to safeguard the interests of all the citizens. This law laid down by the Supreme Court has virtually infraacted article 14 of the Constitution which provides that the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India. The judgment, if analysed in the light of the above fundamental right enshrined in article 14 of the Constitution despite the reasons given by the Supreme Court, will show that the Supreme Court has given a clear mandate to the authorities of the Union and State Governments to summarily dismiss the Government servants from service without giving any opportunity to them, which is in flagrant violation of the said article. If the law laid down by the Supreme Court in the judgment is to be applied by the Government authorities and their executive officials, they are bound to apply the said law by arbitrarily using the said powers, which is bound to result in abuse of the said powers to the detriment of the means of livelihood of the Government servants. Such unbridled powers if conferred upon the executive authorities can never give justice to the Government servants.

It is stated in the judgment that in cases where livelihood is provided by public exchequer, the said right of livelihood could be taken away in the interest of public and for public good and, therefore, the so-called interest of public should outweigh the considerations of taking away such livelihood. The said judgment, therefore, has given a complete death-blow to the fundamental rights of the Government servants in as much as special prerogative is given to the Government to hire and fire in flagrant breach of article 14 of the Constitution.

It is further stated in the judgment that even though article 311(2) is based on public policy and in public interest as well as for public good, the Constitution makers were the best persons to decide whether such a provision should be there and the situation in which this provision should apply. It is, therefore, high time that this House should rise to the occasion and protect the interests of the Government servants by suitably amending article 311 of the Constitution.

Hence this Bill.

NEW DELHI;

July 31, 1985.

DATTA SAMANT

Bill No. 177 or 1985

A Bill further to amend the Hindu Marriage Act 1955.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 1985.

Short title and commencement.

(2) It shall come into force at once.

25 of 1955

2. After section 25 of the Hindu Marriage Act, 1955, the following new section shall be inserted, namely:—

Insertion of new section 25A.

“25A. Notwithstanding anything contained in any other law for the time being in force, any court exercising jurisdiction under this Act shall, at the time of passing any decree in a suit where the wife is the respondent, order that the respondent wife shall be entitled to get, by way of permanent alimony and support, atleast one-half of the total property, income and/or any other assets owned by the petitioner husband or jointly by the husband and the wife.”.

Payment of maintenance to respondent wife.

STATEMENT OF OBJECTS AND REASONS

Under the Hindu Marriage Act, 1955, perhaps for the first time, the procedure for divorce amongst Hindus was introduced. Ever since there has been a constant increase in the number of divorce cases every year. Under section 25 of the Act, provision was made for the payment of permanent alimony and support to the respondents. However, the quantum of financial relief in each case was to be decided by the court keeping in view the income of the applicant and his other liabilities, etc. This left a little uncertainty for the divorced wife who would find it very difficult to support herself and her children, if any, because in many cases the petitioner husbands managed to show less income or heavy liabilities. The property earned by the husband during the wed-lock period is not at all being taken into account in these cases. Even the parents of the husband connived in this situation.

It, therefore, becomes necessary to safeguard the interests of the divorcee wife, particularly in the old age, so that she gets a reasonable amount of money and income to support herself and her children, if any. Moreover, this measure would also prove a deterrent and would minimise the evil of divorce on flimsy grounds being resorted to by many a husband conniving in few cases with their parents. Hence this Bill.

New Delhi;

August 9, 1985.

JAYANTI PATNAIK.

Bill No. 175 of 1985

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1985.

Short title and commencement.

(2) It shall come into force at once.

2. In article 16 of the Constitution, for clause (4), the following clause shall be substituted, namely:—

Amendment of article 16.

“(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically backward class of citizen whose family's total annual income upon whom such citizen is dependent does not exceed rupees three thousand and, which, in the opinion of the State, is not adequately represented in the services under the State.”.

STATEMENT OF OBJECTS AND REASONS

Article 16 of the Constitution of India provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State and that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them be ineligible for, or discriminated against in respect of, any employment or office under the State.

In pursuance of these provisions Government have been making efforts to provide jobs for these citizens who have not been adequately represented in the services under the State. The efforts made are no doubt laudable.

However, it has been observed that in determining which class of people belongs to backward class, due consideration has not been given to the economic status of the citizen. As a result many affluent people amidst so called inadequately represented backward castes have gained advantages at the cost of the economically backward class of citizens of other castes.

The Bill seeks to provide equitable opportunity to all citizens who are economically backward and who should be given due opportunity in the services of the State.

This amendment which has become a need of the hour will go a long way in reducing inequalities amongst the various sections of the society and provide equal employment opportunities to all citizens irrespective of their creed or caste as is provided in the Constitution.

Hence this Bill.

NEW DELHI;
August 9, 1985.

JAYANTI PATNAIK.

SUBHASH C. KASHYAP,
Secretary-General.